UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. No. 1:10-cv-10897-FDS

DB, a minor,
by his next friend and mother, ELIZABETH B.,
Plaintiffs,

v.

The SUTTON SCHOOL DISTRICT,
the SUTTON SCHOOL COMMITTEE, and
the MASSACHUSETTS DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Defendants

PLAINTIFFS' MOTION TO SUPPLEMENT ADMINISTRATIVE RECORD

Now come Plaintiffs and Move this Honorable Court pursuant to 20 U.S.C. §1415(i)(2)(C)(ii) and 34 C.F.R. §300.516(c)(2) to allow them to supplement the Administrative Record of the BSEA Hearing by addition of the information contained in Exhibits A and B showing that D.B.'s educational placement was in the Sutton Public Schools ("SPS") as of 6/7/10. As reasons therefore Plaintiffs state that Defendants will not be prejudiced thereby insofar as, as Exhibit B shows, they clearly knew that D.B.'s placement was in SPS as of 6/7/10. Such supplementation is necessary to provide an update of D.B.'s status and assist this Court in a determination of the reasonableness of the Hearing Officer's decision appealed from. Caselaw is clear that additional information is appropriate to supplement the administrative record in an IDEA appeal if the additional information provides updated status of the student in question. *YRM v. School Union 92, 2009 U.S. Dist. LEXIS 85127, at. 2-3* ("On at least two prior occasions in this case I have addressed the legal standard that applies to requests to supplement an administrative record in an IDEA appeal. (See Doc. Nos. 98 and 77.) On both occasions I have recognized the general principle set forth by Magistrate Judge Cohen in Mr. & Mrs. I. ex rel. L.I. v. Me. Sch. Admin. Dist.

No. 55, No. 04-CV-165-P-H, 2004 WL 2397402, * 3, 2004 U.S. Dist. LEXIS 21525, *2-3 (D. Me. Oct. 27, 2004) (collecting cases), that evidence of a child's post-hearing status might shed light on the reasonableness of the hearing officer's decision and thus could be relevant in the determination of the correctness of that decision. This theory recognizes the difficult task before the Court of determining the reasonableness of the "snapshot" of the child that was necessarily taken by the hearing officer at the time of his or her decision in the case. Roland M. v. Concord Sch. Comm., 910 F.2d 983, 992 (1st Cir. 1990). I apply that same standard to the current motion to supplement."); *see also Hannah H. v. State of Hawaii Board of Education, , 2007 U.S. Dist. LEXIS 29227, at 16* ("The Ninth Circuit has expressly recognized that a court may consider additional evidence of relevant events that occur after the administrative hearing. See *Ojai, 4 F.3d at 1473*.").

Plaintiffs, by their attorney,

/s/ David R. Bohanan
David R. Bohanan
BBO # 556401
P.O. Box 562
286 Boston Road
Sutton, MA 01590
(508) 865-7352

6/29/11

CERTIFICATE OF SERVICE

I, David R. Bohanan, hereby certify that this document was filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 29th day of June, 2011.

/s/ David R. Bohanan
David R. Bohanan